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The following constitutes the order of the Court.  
Signed: July 1, 2023

William J. Lafferty, III  
U.S. Bankruptcy Judge

9 *Counsel for the Debtor*  
10 *and Debtor in Possession*

11 **UNITED STATES BANKRUPTCY COURT**  
12 **NORTHERN DISTRICT OF CALIFORNIA**  
13 **OAKLAND DIVISION**

14 In re:  
15 THE ROMAN CATHOLIC BISHOP OF  
16 OAKLAND, a California corporation sole,  
17 Debtor.

Case No. 23-40523 WJL  
Chapter 11

**ORDER (I) AUTHORIZING THE  
EMPLOYMENT AND RETENTION OF  
ALVAREZ & MARSAL NORTH AMERICA,  
LLC AS RESTRUCTURING ADVISOR TO  
THE DEBTOR EFFECTIVE AS OF TO THE  
PETITION DATE; AND (II) GRANTING  
RELATED RELIEF**

21 Upon the application (the "Application")<sup>1</sup> filed by The Roman Catholic Bishop of Oakland, a  
22 California corporation sole, and the debtor and debtor in possession (the "Debtor" or "RCBO") in the  
23 above-captioned chapter 11 bankruptcy case (the "Chapter 11 Case" or the "Bankruptcy Case"), pursuant  
24 to sections 105(a), 327(a), 328, and 1107(b) of title 11 of the United States Code (the "Bankruptcy Code"),  
25 Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and  
26 Local Rules 2014-1 and 2016-1 of the Local Bankruptcy Rules for the Northern District of California,

28 <sup>1</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the



1 Oakland Division (the “Local Rules”) for the entry of an order (a) authorizing the employment and  
2 retention of Alvarez & Marsal North America, LLC, together with employees of its affiliates (all of which  
3 are wholly owned by its parent company and employees), its wholly owned subsidiaries, and independent  
4 contractors (collectively, “A&M”) as restructuring advisor to the Debtor in the Chapter 11 Case, pursuant  
5 to the engagement agreement attached to the Application as **Exhibit C** (the “Engagement Agreement”),  
6 dated as of January 19, 2023, effective as of the Petition Date, and (b) granting related relief, all as more  
7 fully set forth in the Application; and upon the Moore Declaration submitted in support of the Application;  
8 and this Court having reviewed the Application, the First Day Declaration, the Moore Declaration, and  
9 the supplemental declaration of Charles M. Moore filed as ECF No. 154 (the “Supplemental  
10 Declaration”); and this Court having found that (a) this Court has jurisdiction over this matter pursuant to  
11 28 U.S.C. §§ 157 and 1334 and that this is a core proceeding pursuant to 28 U.S.C. §§ 157(a)-(b) and  
12 1334(b) and the *Order Referring Bankruptcy Cases and Proceedings to Bankruptcy Judges*, General Order  
13 No. 24 (N.D. Cal.), and Rule 5011-1(a) of the Local Rules; (b) venue is proper before this Court pursuant  
14 to 28 U.S.C. §§ 1408 and 1409; and (c) due and proper notice of the Application was sufficient under the  
15 circumstances; and this Court having determined that the legal and factual bases set forth in the  
16 Application establish just cause for the relief granted herein; and it appearing that the relief requested in  
17 the Application is in the best interests of the Debtor, its estate, creditors, and other parties-in-interest; and  
18 upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing  
19 therefor;

20 **IT IS HEREBY ORDERED THAT:**

- 21 1. The Application is APPROVED as set forth in this Order.
- 22 2. The Debtor is authorized to retain A&M as restructuring advisor, effective as of the Petition  
23 Date, under the terms set forth in the Engagement Agreement, and A&M is authorized and directed to  
24 perform the services described in the Engagement Agreement and Application.
- 25 3. A&M shall be compensated in accordance with, and will file, monthly, interim, and final  
26 fee applications for allowance of its compensation and expenses and shall be subject to sections 330 and  
27  
28

1 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Fee and Expense Guidelines, any  
2 applicable United States Trustee guidelines, and any orders of this Court.

3 4. The indemnification, contribution, and reimbursement provisions set forth in the  
4 Engagement Agreement, as modified by the Application and this Order, are approved, subject, during the  
5 pendency of the Chapter 11 Case, to the following:

6 All requests by A&M for payment of indemnity pursuant to the Engagement  
7 Agreement shall be made by means of an application (interim or final as the  
8 case may be) and shall be subject to review by the Court to ensure that  
9 payment of such indemnity conforms to the terms of the Engagement  
10 Agreement and is reasonable based upon the circumstances of the litigation  
11 or settlement in respect of which indemnity is sought, *provided, however,*  
12 that in no event shall A&M be indemnified to the extent a court determines  
13 by final order that any claim or expense has resulted from the bad faith, self-  
14 dealing, breach of fiduciary duty (if any), gross negligence, or willful  
15 misconduct on the part of A&M.

16 5. Notwithstanding anything to the contrary in the Engagement Letter, the Application, or  
17 the Moore Declaration, or the Supplemental Declaration, the indemnification provisions are hereby  
18 modified as follows:

- 19 a. A&M shall not be entitled to indemnification, contribution or reimbursement  
20 pursuant to the Engagement Letter for services, unless such services and the  
21 indemnification, contribution or reimbursement therefore are approved by the  
22 Court;
- 23 b. the Debtor shall have no obligation to indemnify A&M, or provide contribution or  
24 reimbursement to A&M, for any claim or expense that is either: (i) judicially  
25 determined (the determination having become final) to have arisen from A&M's  
26 gross negligence, willful misconduct, breach of fiduciary duty, if any, bad faith or  
27 self-dealing; (ii) for a contractual dispute in which the Debtor alleges the breach of  
28 A&M contractual obligations unless the Court determines that indemnification,  
contribution or reimbursement would be permissible pursuant to *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination as to A&M's gross negligence, willful misconduct, breach of fiduciary duty, or bad faith or self-dealing but determined by this Court, after notice and a hearing to be a claim or expense for which A&M should not receive indemnity, contribution or reimbursement under the terms of the Agreement as modified by the Application and this Order; and
- c. before the earlier of (i) the entry of an order confirming a chapter 11 plan in this Chapter 11 Case (that order having become a final order no longer subject to

1 appeal), and (ii) the entry of an order closing this Chapter 11 Case, A&M believes  
2 that it is entitled to the payment of any amounts by the Debtor on account of the  
3 Debtor's indemnification, contribution and/or reimbursement obligations under the  
4 Engagement Letter (as modified by the Application and this Order), including  
5 without limitation the advancement of defense costs, A&M must file an application  
6 therefore in this Court, and the Debtor may not pay any such amounts to A&M  
7 before the entry of an order by this Court approving the payment. This  
8 subparagraph (c) is intended only to specify the period of time under which the  
9 Court shall have jurisdiction over any request for fees and expenses by A&M for  
10 indemnification, contribution or reimbursement and not a provision limiting the  
11 duration of the Debtor's obligation to indemnify A&M. All parties in interest shall  
12 retain the right to object to any demand by A&M for indemnification, contribution  
13 or reimbursement.

14 6. For services rendered during this Chapter 11 Case, the following language in the  
15 indemnification and limitation on liability agreement ("Indemnity Agreement") attached to the  
16 Engagement Letter shall be of no force and effect: (1) in clause (A) of the Indemnity Agreement:  
17 "in no event will any Indemnified Party have any liability to the Company for special,  
18 consequential, incidental or exemplary damages or loss (nor any lost profits, savings or business  
19 opportunity)" and (2) in clause (D) of the Indemnity Agreement: "; and further provided that in  
20 no event will the Indemnified Parties' aggregate contribution for all losses, claims, damages,  
21 liabilities, and expenses with respect to which contribution is available hereunder exceed the  
22 amount of fees actually received by the Indemnification Parties pursuant to the Agreement."

23 7. During the course of this Chapter 11 Case, the following sentence set forth in Paragraph 9  
24 of the Engagement Letter shall have no force or effect: "The Firm will not be prevented or restricted by  
25 virtue of providing the Services from providing services to other entities or individuals, including  
26 entities or individuals whose interests may be in competition or conflict with the Company's, provided  
27 the Firm makes appropriate arrangements to ensure that the confidentiality of information is  
28 maintained."

8. During the course of the bankruptcy case, any provision in the Engagement Letter requiring  
the payment of a percentage of fees to cover any type of cost or expense shall have no force or effect.

9. Notwithstanding anything to the contrary in the Application, any of its attachments, or any  
engagement letter, A&M shall not seek reimbursement of any fees or costs arising from the prosecution

1 or defense of any of A&M's monthly fee statements or fee applications in this Chapter 11 Case.

2 10. Notwithstanding any provision in the Engagement Letter to the contrary, the  
3 Court shall have exclusive jurisdiction over A&M's engagement during pendency of this Chapter 11  
4 Case.

5 11. Notwithstanding anything to the contrary in the Engagement Letter, during this Chapter 11  
6 Case, A&M is being retained solely by the Debtor and not by any of the Debtor's other professionals.  
7 Only the Debtor shall have the ability to terminate A&M's retention in this Chapter 11 Case.

8 12. In the event of any inconsistency between the Engagement Agreement, the Application,  
9 and this Order, this Order shall govern.

10 13. Notwithstanding any provision in the Bankruptcy Rules to the contrary, this Order shall be  
11 immediately effective and enforceable immediately upon its entry.

12 14. The Debtor is authorized and empowered to take all action necessary to effectuate the relief  
13 granted in this Order.

14 15. This Court shall retain jurisdiction with respect to all matters arising from or related to the  
15 implementation, interpretation, or enforcement of this Order.

16 **APPROVED AS TO FORM:**

17 OFFICE OF THE UNITED STATES TRUSTEE

18 By:     /s/ Jason Blumberg      
19 Jason Blumberg  
20 Trial Attorney

21 \*\*\* END OF ORDER \*\*\*  
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**COURT SERVICE LIST**

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All ECF Recipients.